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March 8, 2002

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Jeffrey Dygert
Assistant Bureau Chief
Common Carrier Bureau
Federal Communications Commission
The Portals
445 12th St. S.W.
Washington, D.C. 20554

Re: CC Docket No. 00-218

Dear Mr. Dygert:

WorldCom submits this letter to provide the Commission with a copy of In re On the Commission's Own Motion, To Consider Ameritech Michigan's Compliance With the Competitive Checklist in Section 271 of the Federal Telecommunications Act of 1996, Case No. U-12320, Opinion and Order (Mich. Pub. Serv. Comm'n Dec. 20, 2001), a recently issued decision addressing issues that are in dispute in the above-captioned docket. In that Order, the Michigan Public Service Commission ("Michigan PSC") recognized that the CNAM database is an unbundled network element ("UNE") which must be provided on a nondiscriminatory basis without restrictions on its use, and reaffirmed that the database must be provided in a downloadable format. See id. at 18-19. That holding directly supports WorldCom's position on Issue IV-25. In addition, the Michigan PSC's resolution of the carriers' disputes regarding line-splitting and line-sharing, and access to the directory assistance listing database, supports WorldCom's position regarding Issues IV-24 (Directory Assistance Database) and IV-84 (Multiple Modes of Entry per Customer Arrangement; Offering of DSL Services for Resale Over Local Loops Leased By Competitors).

If you have any questions, please do not hesitate to contact me at 202-639-6058.

Very truly yours,

Jodie L. Kelley

Jodie L. Kelley

CERTIFICATE OF SERVICE

I hereby certify that true and accurate copies of the foregoing letter were delivered this 8th day of March, 2002, by federal express and regular mail to:

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By: Jodie L. Kelley
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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter, on the Commission's own motion, to consider **AMERITECH MICHIGAN's** compliance with the competitive checklist in Section 271 of the federal Telecommunications Act of 1996.	)))))	Case No. U-12320

At the December 20, 2001 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Laura Chappelle, Chairman
Hon. David A. Svanda, Commissioner
Hon. Robert B. Nelson, Commissioner

OPINION AND ORDER

On February 9, 2000, the Commission issued an order that commenced a collaborative process and established a procedural framework for determining Ameritech Michigan's compliance with the competitive checklist set out in Section 271 of the federal Telecommunications Act of 1996 (the federal Act), 47 USC 271. That statute provides the conditions that a Bell operating company (in this case, Ameritech Michigan) must meet to obtain authorization from the Federal Communications Commission (FCC) to provide in-region interLATA services.

By March 22, 2000, the following parties filed an appearance or notice of intent to participate in the proceedings: Ameritech Michigan, Qwest Communications Corporation and LCI International Telecom Corp., d/b/a Qwest Communications Services, Sprint Communications Company, L.P., Telecommunications Association of Michigan (TAM), XO Michigan, Inc., f/k/a NEXTLINK Michigan, Inc. (XO), Attorney General Jennifer M. Granholm (Attorney General),

BRE Communications, LLC, d/b/a McLeodUSA (McLeod), MCI WorldCom Communications, Inc., MCImetro Access Transmission Services, Inc., and Brooks Fiber Communications of Michigan, Inc. (collectively, MCI), AT&T Communications of Michigan, Inc. (AT&T), Rhythm Links, Inc.,[1] the CLEC Association of Michigan (CLECA), Teligent, Inc., the Telecommunications Resellers Association, Sprint Communications Company, L.P. (Sprint), WinStar Wireless of Michigan, Inc., Horizon Telecommunications, Inc., Building Communications, Inc., CoreComm Michigan, Inc., Long Distance of Michigan, Inc. (LDMI), MediaOne Telecommunications of Michigan, Inc., Michigan Cable Telecommunications Association, Prism Michigan Operations, LLC, Competitive Telecommunications Association, the Commission Staff (Staff), Michigan Consumer Federation (MCF), Coast to Coast Telecommunications, Inc., AirTouch Cellular, Inc., and the Michigan Pay Telephone Association (MPTA). Later notices of intent to participate were filed by Z-Tel Communications, Inc., (Z-Tel) and IP Communications Corp. During the ensuing months, the parties participated in the collaborative process to narrow and define the issues surrounding whether Ameritech Michigan is in compliance with the Section 271 checklist.

On May 15, 2001, Ameritech Michigan submitted its Checklist Informational Filing, which included a brief supported by 19 affidavits and numerous exhibits. Ameritech Michigan stated that the filing was intended to detail the full array of Ameritech Michigan's product and service offerings, describe the commitments that the company had made in the collaborative process, and demonstrate that Ameritech Michigan has met the requirements of the 14 items in the Section 271 checklist, subject to the results of independent testing of its operational support systems (OSS) by KPMG Consulting, LLC (KPMG) and analysis of its performance measurement data.

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[1] On October 26, 2001, Rhythm Links filed a notice of withdrawal from this case.

On June 29, 2001, the Commission received comments on Ameritech Michigan's filing by the following parties: MCI, McLeod, MichTel, Sprint, MCTA, XO, the Attorney General, AT&T, MCF, MPTA, Z-Tel, and CLECA. On July 30, 2001, reply comments were filed by: CLECA, AT&T, McLeod, MCI, MCF, the Attorney General, and Ameritech Michigan.

Scope

The intent of this order is to provide Ameritech Michigan with forewarning of issues on which the Commission may later determine that the company is not in compliance with the requirements of the Section 271 checklist. To that end, the Commission will not discuss every issue raised by the parties. The comments and reply comments raise myriad issues with Ameritech Michigan's tariffs, operations, and interconnection behavior, many of which the Commission has addressed before. For issues that have been addressed in prior orders and that are not addressed here, the Commission reaffirms its previous conclusions and urges Ameritech Michigan to comply fully with the requirements of those orders. Those issues determined to be outside the scope of this case or inadequately supported by evidence or argument against Ameritech Michigan are also not addressed. Additionally, certain issues that are within the scope of Section 271 compliance have been raised in other pending cases, and the Commission finds that those issues are more appropriately addressed in the other proceedings. Those pending cases include without limitation cases before the Federal Communications Commission (FCC) and the Commission.[2] Thus, the lack of discussion in this order of any particular issue should not be taken as a finding that Ameritech Michigan is necessarily in compliance with any Section 271 requirements. This is a preliminary order in which the Commission will provide notice to Ameritech Michigan that

[2] For example, Case No. U-12465 and Case No. U-13193.

redirection is needed to facilitate the company's efforts to gain the Commission's endorsement of its Section 271 application with the FCC.

Checklist Item #2: Nondiscriminatory access to network elements in accordance with the requirements of Sections 251(c)(2) and 252(d)(1).

A. Remote Switches

In its comments, McLeod argues that Ameritech Michigan fails to meet checklist item number 2 because the incumbent now refuses to provision unbundled loops out of its remote switches and insists that a CLEC collocate in all remote switches. McLeod asserts that the requirement makes it cost-prohibitive for the CLECs to serve many Michigan customers. It further asserts that Ameritech Michigan's cost models do not include remote switches, and that a remote switch cannot exist in a cost model based on forward-looking cost principles.

Through the affidavit of Scott J. Alexander, Ameritech Michigan responds that McLeod has provided no evidence to support its allegations or brought forth one fact regarding any event or occurrence in Michigan. Mr. Alexander explains that Ameritech Michigan has deployed remote switching in its network for a variety of reasons, such as replacement of central office switch applications or for relief in areas of growth. He goes on to state that Ameritech Michigan has not implemented a new policy with regard to CLEC collocation as a means to access unbundled network element (UNE) loops at remote switch locations. He asserts that Ameritech Michigan offers "CLECs access to UNE loops at the points where the loop originates and terminates as required by FCC rules, and as the parties have agreed." Alexander affidavit, p. 22.

Through the affidavit of Richard J. Florence, Ameritech Michigan states that the cost studies approved by the Commission in Case No. U-11831 do reflect the existence of remote switches. Mr. Florence states that the Ameritech Facility Analysis Model, which is used to develop loop

investments, reflects the loop's components up to the remote switch, not to some host switch that may be miles away.

The Commission finds that remote switch costs were properly included in the Commission approved cost studies in Case No. U-11831. However, it is not clear from Ameritech Michigan's response whether it currently insists that CLECs collocate at each remote switch. The Commission cautions Ameritech Michigan that it may not require collocation at its remote switches. In the Commission's view, this problem is similar to providing access at the tandem to the end offices that home on that tandem as opposed to requiring a CLEC to collocate at each end office. Ameritech Michigan must provide access to unbundled loops at any technically feasible point on its network. As long as it is feasible to provide access to an unbundled loop from a remote switch through the host central office, Ameritech Michigan must do so. The cost-effectiveness of that access must be determined by the requesting CLEC.

B. Line Loss Notifications

On November 13, 2001, MCI filed an update on line loss notifications for CLEC-to-CLEC migrations, with an attached affidavit of Sherry Lichtenberg. In those documents, MCI states that on November 1, 2001, Ameritech Michigan informed MCI that Ameritech Michigan had not been sending line loss reports on CLEC-to-CLEC migrations. MCI states that such lack of notice applies to unbundled network element platform (UNE-P) service migrations from MCI to another CLEC or from another CLEC to MCI.[3] MCI asserts that, absent notification that its customer has chosen to receive service from a different provider, MCI continues to send billings for service. At

[3] Earlier, Z-Tel complained about not receiving line loss notification for customers that returned to Ameritech Michigan commonly called Winback changes.

the same time, the new CLEC initiates billing, and customers are understandably annoyed by double billing.

MCI goes on to state that Ameritech Michigan has taken a cavalier attitude about this problem. It states that on November 6, 2001, Ameritech Michigan informed MCI that it would not be able to correct the problem before December 15, 2001. According to the update filing, correcting the problem includes sending MCI the overdue notifications for customers already gone and instituting a working procedure for timely notifications on a going-forward basis.

MCI argues that Ameritech Michigan's failure to place sufficient importance on this issue may also indicate discriminatory treatment, because Ameritech Michigan was much more concerned when a similar issue affected its own customers who had migrated from a CLEC. MCI estimates that over 1,000 customers in Michigan and Illinois are currently affected by this problem.

On December 14, Ameritech Michigan filed a response to MCI's update on line loss notification issues. In that response, Ameritech Michigan describes certain actions it has taken to correct the identified problems and indicates that it is engaged in ongoing efforts to address these issues. It asserts that its efforts have been timely and reasonable.

In the Commission's view, this problem has a grave potential effect on competition for local exchange service and is one of the most serious of the problems raised in this case. Billing for services after they have been cancelled violates Section 502(1)(c) of the Michigan Telecommunications Act, MCL 480.2502(1)(c), and may have serious negative effects on the reputations of both competitive providers. Failure to provide timely notice of migrations is an egregious and anticompetitive neglect of Ameritech Michigan's duty. This problem, including both CLEC-to-CLEC migrations and Winback changes, must be resolved promptly. Therefore, the Commission directs Ameritech Michigan to file, within 20 days, a comprehensive report on its

efforts to resolve it. Specifically, Ameritech Michigan must delineate the success of its efforts in resolving these issues to date, including numbers of affected customers. In addition, Ameritech Michigan shall specify timeframes within which CLECs may expect notification. That report shall also include confirmation that Ameritech Michigan has provided notice to affected customers that continued billing after the switch in providers was the fault of Ameritech Michigan, not either CLEC. Interested parties may then respond within 15 days of Ameritech Michigan's filing.

Checklist Item #4: Local loop transmission from the central office to the customer's premises, unbundled from local switching or other services.

Line Sharing and Line Splitting

As the Commission explained in its March 7, 2001 order in Case No. U-12540, line sharing "is an arrangement in which Ameritech Michigan, as the incumbent local exchange carrier (ILEC) uses the low-frequency portion of the loop to provide voice service to a customer while a data competitive local exchange carrier (data CLEC) uses the high-frequency portion of the loop to provide high-speed data services such as digital subscriber line (DSL) services to the same customer." Id., p. 3. On the other hand, line splitting is "an arrangement in which a CLEC, rather than Ameritech Michigan, provides voice services over the low-frequency portion of the loop while a data CLEC (which may also be the voice service CLEC) provides data services over the high-frequency portion of the loop." Id. p. 6. The Commission found that Ameritech Michigan must permit line splitting over the UNE-P, at least when the CLECs provide the splitter. That obligation continues even when the loop includes fiber facilities.

The parties do not agree concerning the Commission's intent when it required Ameritech Michigan to permit line splitting over the UNE-P and the effect that Ameritech Michigan's performance of its provisioning responsibilities has on its compliance with checklist item number

four. The issues surrounding these disputes affect ordering, provisioning, prices, and the ability of providers to compete for the voice traffic of a customer that desires a CLEC's services.

MCI argues that Ameritech Michigan has taken the following positions that are contrary to law: (1) the voice CLEC must have its own splitter for UNE-P line splitting; (2) on an existing line sharing arrangement, the data CLEC has 24 hours to deny the transfer of the voice service to UNE-P service with a different CLEC; and (3) existing lines must be converted to DS0 loops in order to provision line splitting. MCI argues that (1) the data CLEC typically owns the splitter, so there is no need for the voice CLEC to own one for all orders; (2) there is no legal requirement that the data CLEC have veto power over a customer's choice of voice provider; and (3) allowing the migration from line sharing to line splitting on existing lines through UNE-P does not require that existing lines be converted to DS0 loops.

Through the Second Affidavit of Scott L. Finney, AT&T complains that Ameritech Michigan has failed to provide CLECs with sufficient information concerning how line splitting will be provisioned. It further states that Ameritech Michigan has not developed a one-order process for line splitting, as urged by the FCC in the Line Sharing Reconsideration Order.[4] AT&T argues that Ameritech Michigan's proposed process for line splitting introduces unacceptable levels of service disruption and delay. Further, AT&T argues, these processes appear engineered to support Ameritech Michigan's proposed nonrecurring charges. It states that only Ameritech Michigan really knows what the processes are for ordering, provisioning, and billing for line splitting. AT&T states that it would support industry technical conferences on this issue.

[4] FCC Order 01-26, In the matter of Deployment of Wireline Services Offering Advanced Telecommunication Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket Nos. 98-147 and 96-98, rel'd January 19, 2001.

After reviewing the arguments and evidence of the parties, the Commission concludes that the positions that Ameritech Michigan has taken in regard to line splitting may not meet the requirements of the checklist and offers the following as guidance.

The Commission finds that, to comply with the requirements of Section 271, Ameritech Michigan must facilitate the migration of voice service from itself to a CLEC when line splitting over the UNE-P. The UNE-P refers to the loop-switch port platform combination of elements that Ameritech Michigan is required to provide to CLECs for the provision of voice service. The UNE-P combination remains a UNE-P without regard to the simultaneous use of the high frequency portion of the loop (HFPL) to provide data service. Therefore, Ameritech Michigan's duty to make the UNE-P available to a CLEC for the provision of voice service is also unchanged by data service provided over the same loop, whether it is provided by Ameritech Michigan, one of its affiliates, or another data CLEC. The manner in which the elements are cross-connected at Ameritech Michigan's central office does not change the UNE-P from the platform used to provide voice service. Therefore, the Commission concludes that a CLEC need not gain the approval or sign-off of the data CLEC before it may win the opportunity to provide voice service to a customer and migrate the service from line sharing to line splitting.

The Commission rejects Ameritech Michigan's argument that the FCC's orders support its position that the data CLEC has a right of first refusal for the voice portion of the loop when a customer seeks to alter its voice provider from the incumbent. Although the FCC has stated that the incumbent need not continue to provide data CLEC services when the voice portion of the loop has migrated to a CLEC, the Commission does not agree that the FCC intended to grant the data CLEC a veto power over the customer's choice of voice service providers, particularly in Michigan, where the voice provider, not the data provider, pays for the loop. Thus, the

Commission finds that when a CLEC requests a migration of voice service using the UNE-P, and the HFPL is already being used to provide data service, Ameritech Michigan may not refuse to process that order based on the present service of a data CLEC on the HFPL.

There is no evidence that suggests the likelihood of a data CLEC objecting to a different voice provider on the same loop, or for what reason an objection might be lodged. MCI's argument suggests an anticompetitive agenda might be advanced by an ILEC refusing to continue service. It is not necessary to decide the motivation of such a choice. The Commission finds that, should a data CLEC choose not to provide data services after migration of the voice portion of the loop to the CLEC, the CLEC may choose to provide data services itself or to find a data service provider that is willing to provide the service in conjunction with the CLEC.[5] In any event, it is not a matter that should impede Ameritech Michigan's processing of orders for use of the UNE-P for voice service using line splitting.

Further, the Commission finds that Ameritech Michigan must take steps to streamline the process for ordering and provisioning the UNE-P when line splitting is involved. The Commission is not persuaded that there is a rational basis for requiring a three-order process for migrating a line sharing to a UNE-P line splitting. In its Line Sharing Reconsideration Order, the FCC stated that "because no central office wiring changes are necessary in a conversion from line sharing to line splitting, we expect incumbent LECs to work with competing carriers to develop streamlined ordering processes for migrations between line sharing and line splitting that avoid voice and data service disruption and make use of the existing xDSL-capable loop." Id., ¶ 22. In the Commission's view, the service disruption and potential loss of facilities inherent in a three-

[5] This finding does not eliminate the duty of Ameritech Michigan and its affiliates to avoid anticompetitive actions and to provide nondiscriminatory service. See, e.g. the Line Splitting Reconsideration Order, ¶ 26.

order process are unnecessary and do not provide the competitor with a reasonable opportunity to compete.

Moreover, the Commission finds that Ameritech Michigan must take steps to share with the CLECs its proposed ordering and pricing scenarios, which it stated would be available for review in July. Apparently, this information has still not been discussed with interested parties, despite the fact that the FCC's line sharing and line splitting requirements have been in effect for some time. The Commission therefore directs Ameritech Michigan to begin discussions of these scenarios with the industry immediately, as amended (if at all) to comply with this order. Any unresolved issues concerning ordering or pricing proposals shall be jointly filed for resolution by the Commission, as provided in the Commission's February 9, 2000 order in Case No. U-12320.

Given the status of third-party testing of Ameritech Michigan's OSS systems, new line splitting scenarios developed as a result of these findings will not be included in the current OSS testing by KPMG. However, adequately developed methods and procedures for ordering, provisioning, and billing for presently requested line splitting arrangements must be completed, along with acceptable pricing components, before Ameritech Michigan may be considered in compliance with this checklist item.

Further, the Commission finds that when a CLEC is providing service via the UNE-P, and data service is added on the HFPL, the following applies. Ameritech Michigan may not require the UNE-P voice provider to collocate in its central office. See, Massachusetts 271 Order,[6] ¶178. Rather, the data CLEC may collocate and locate its splitter and digital subscriber line access

[6] FCC Order 01-130, In the matter of the Application of Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), and Verizon Global Networks Inc., for authorization to provide in-region, interLATA services in Massachusetts, CC Docket No. 01-9, rel'd April 16, 2001.

multiplexer (DSLAM) in its own collocation space without any collocation requirement placed on the UNE-P voice provider. Ameritech Michigan appears to recognize this responsibility in its July 30, 2001 reply comments.

Further, Ameritech Michigan may not require the UNE-P voice provider to purchase a new loop if the existing loop already is data capable. See, FCC's Line Sharing Reconsideration Order, ¶19. Ameritech Michigan also acknowledges this requirement in its reply comments.

Additionally, the Commission finds that, although some central office rewiring might be required to incorporate the data CLEC's splitter and DSLAM, the combination of UNEs used in the provision of voice service still exists after that rewiring is completed. Therefore, the voice CLEC's UNE-P service continues after the addition of the data service. If existing UNE-P service was purchased before the conversion to line splitting, it exists after the incorporation of the data service.

Checklist Item #7: Nondiscriminatory access to (1) 911 and E911 services; (2) directory assistance services to allow the other carrier's customers to obtain telephone numbers; and (3) operator call completion services.

A. Non-Discriminatory Access to Operator Services (OS) and Directory Assistance (DA) Services

Z-Tel objects to Ameritech Michigan's imposing a per-use charge for DA in addition to the one-time branding charge contained in Ameritech Michigan's tariffs. Z-Tel considers this a defect in Ameritech Michigan's billing system.

MCI argues that the Commission ordered Ameritech Michigan to provide unbundled OS and DA at total service long run incremental cost (TSLRIC) rates in the March 19, 2001 order in Case No. U-12622. Despite that order, MCI asserts, Ameritech Michigan has filed tariffs with an additional recurring per call charge of $0.022 for branding and a $2,169.31 nonrecurring per

switch charge, neither of which has been approved by the Commission. Thus, MCI states, Ameritech Michigan is not currently charging TSLRIC rates for OS and DA. Although MCI states that it has not yet received a billing for OS or DA for earlier UNE-P based local service in Michigan, it argues that the Commission should require Ameritech Michigan to file tariffs that comply with the Commission's prior cost orders.

Ameritech Michigan responds that Z-Tel completely ignores the evolution of Ameritech Michigan's branding process for UNE-based CLECs. It asserts that per-call charges for OS or DA calls over a shared trunk are appropriate because of the per-call activity that is required to ascertain which CLEC is associated with that line. However, Ameritech Michigan states, OS and DA services are available over dedicated trunks without a per-call charge, because all calls on the dedicated trunk belong to the same CLEC.

As to MCI's complaints, Ameritech Michigan answers that the prices it filed for wholesale OS and DA services are cost-based and comply with the Commission's orders in Case No. U-11831. Ameritech Michigan states that because the new branding capability was deployed in September 2000, after the Commission's order in Case No. U-11831, those prices and costs could not have been determined in that case.[7] Ameritech Michigan admits that OS and DA must be priced as UNEs, but asserts that its current tariff filing complies with the requirements of the Commission's orders in Case No. U-11831. Thus, it argues, the current tariffs are reasonable and lawful.

It appears to the Commission that the existence of these new branding charges can be traced to Ameritech Michigan's tariff filing following the Commission's March 19, 2001 order in Case No. U-12622, an order dealing with shared transport. Following that order, Ameritech Michigan

[7] If Ameritech Michigan is implying that its new method of providing branding is a new service, the Commission rejects that argument. Branding is not a new service, even if provided using a new method.

filed with the Commission's Communications Division Advice No. 3064, which contained the company's proposed shared transport tariffs. However, included in those proposed tariffs were the two additional branding charges at issue here. Before that filing, the only branding charge in the Unbundled OS tariff was a one-time trunk charge of $403.64. Ameritech Michigan enclosed cost support for both new charges with Advice No. 3064. However, neither the general issue of branding nor additional charges for branding was even mentioned in Case No. U-12622. It appears that Ameritech Michigan unilaterally determined that it should insert these two new branding charges in its proposed tariffs following the March 19 order. Such unilateral changes to tariffs are not lawful or appropriate. If Ameritech Michigan desires to propose these charges, it must take appropriate steps to gain Commission approval. Until that time, Ameritech Michigan may not impose these charges, including the per call branding charge. See, the Commission's March 7, 2001 order in Case No. U-12540.

B. Pricing of Access to Directory Assistance Listings (DAL)

MCI complains that Ameritech Michigan does not offer DAL at TSLRIC rates. It points out that Ameritech Michigan does not have a Commission approved cost study for DAL. See, Commission's March 29, 2001 order in Case No. U-12765. In fact, MCI argues, Ameritech Michigan's argument that it did not have an obligation to provision unbundled DAL persuaded the Commission to defer issuing a DAL costing decision in Case No. U-11831. Thus, MCI argues, it is Ameritech Michigan's own fault that it has no currently approved cost study for DAL. MCI asserts that its ability to access the DAL database at reasonable and nondiscriminatory prices is essential to its ability to compete. In MCI's view, pricing DAL at TSLRIC would meet those criteria. It argues that under Michigan law, DA and DAL are required to be priced at TSLRIC.

Ameritech Michigan responds that the Commission should reject MCI's claim that DAL should be priced at TSLRIC. Ameritech Michigan argues that MCI's suggestion was rejected in the UNE Remand Order,[8] in which the FCC recognized DAL as a competitive wholesale service and declined to expand the definition of DA to include DAL or to require DAL to be provided at forward-looking prices. Moreover, Ameritech Michigan asserts, the FCC has approved Section 271 applications for states in which Ameritech Michigan's affiliate charges market-based rates for access to DAL.

The Commission finds that Ameritech Michigan reads too much into the cited portion of the UNE Remand Order. In the cited paragraph, the FCC declines to "expand the definition of OS/DA . . . to provide directory assistance listing updates in daily electronic batch files . . . [because] the obligations already exist under Section 251(b)(3), and the relevant rules promulgated thereunder." Id., ¶ 444. Specifically, 47 CFR 51.217(c)(3)(i) requires that an ILEC permit CLECs to have access to the ILEC's "DA services, including directory assistance databases . . . on a nondiscriminatory basis . . .."

The FCC further referenced its prior Directory Information Listing Order[9] in which the FCC reaffirmed its previous conclusions that incumbent LECs must provide DAL access equal to that which they provide themselves. It stated that "any standard that would allow a LEC to provide access to any competitor that is inferior to that enjoyed by the LEC itself is inconsistent with

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[8] FCC Order 99-238, In re the Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, CC Docket No 96-98, rel'd November 5, 1999.

[9] FCC Order 99-227, Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Provision of Directory Listing Information under the Telecommunications Act of 1934, As Amended, CC Docket Nos. 96-115, 96-98, and 99-273, Third Report and Order, Second Order on Reconsideration, and Notice of Proposed Rulemaking, rel'd September 9, 1999.

Congress' objective of establishing competition in all telecommunications markets." Id., ¶ 129. See also, Id. ¶152. The Commission finds that the requirement to provide nondiscriminatory access to DAL requires that it be provided at cost-based rates consistent with Case No. U-11831 parameters, and on a basis equal to that which the incumbent provides itself. In other words, Ameritech Michigan must permit CLECs to access the DAL electronically and to order directory listings in an electronic format.

As to Ameritech Michigan's claim that the FCC found DAL to be a competitive wholesale service, the Commission finds that the FCC conclusion relates only to ILECs that provide customized routing. The Commission has previously found that Ameritech Michigan does not provide reasonable customized routing. Moreover, although the FCC may have approved Section 271 applications for states in which the incumbent charged market rates for DAL, Ameritech Michigan does not cite a particular portion of those orders discussing the issue. If an issue was not raised in a case, the FCC's failure to reject the application on that basis does not carry persuasive weight in the Commission's determination in this case.

Checklist Item # 10: Nondiscriminatory access to databases and associated signaling necessary for call routing and completion.

Access to Calling Name (CNAM) Database

MCI complains that Ameritech Michigan has not complied with the Commission's March 7, 2001 order in Case No. U-12540, which required Ameritech Michigan to permit CLECs to download the CNAM database. Although Ameritech Michigan has proposed a tariff and a contract amendment related to CNAM access, MCI argues that both attempt to avoid Ameritech Michigan's obligation to provide the CNAM database as a UNE, without restrictions as to the telecommunications services for which it may be used, and to provide it at cost-based prices.

MCI argues that the FCC has established the CNAM database as a call-related database that is subject to the provisioning requirements of UNEs. It argues that it is not the form of access, but the CNAM database itself that is a UNE. Therefore, MCI argues, a CLEC must be permitted to use the database in the provision of any telecommunications service, without restriction.

Moreover, MCI argues, the File Transfer Protocol (FTP) Access is too slow. MCI would prefer Network Data Mover, which, it states, Ameritech Michigan already uses for its DAL and offers greater data transmission capability. Moreover, MCI argues, the hourly update files proposed by Ameritech Michigan are unnecessary and burdensome to the CLEC. According to MCI, CNAM database does not need to be current to the minute or hour. Rather, it states, a daily or twice daily update would be sufficient.

MCI further argues that no CLEC should have to enter into a contract amendment to obtain the new CNAM download. In MCI's view, Ameritech Michigan should make the UNE available by tariff, similar to the manner in which all other UNEs are available.

MCI argues that due to the numerous shortcomings of the proposed tariff and corresponding proposed contract amendment, the Commission should find that Ameritech Michigan does not appropriately provide CNAM download as a checklist item. It urges the Commission to initiate an investigation concerning Ameritech Michigan's compliance with applicable law.

MCI also complains that when a local exchange customer switches to MCI from Ameritech Michigan, the ILEC is not sufficiently careful to correctly update the CNAM database. It states that in one instance in Illinois, calls from a travel agency customer of MCI's were identified through caller ID as a funeral home. MCI argues that such mistakes negatively affect the CLEC's reputation with its customer.

Ameritech Michigan responds that most of MCI's complaints are based on its erroneous assumption that CNAM database download is a UNE. Ameritech Michigan argues that the CNAM database is not a UNE, because the Commission did not do an analysis concerning whether the CNAM database met the "necessary and impair" standards of Sections 251 and 252 of the federal Act. Because, Ameritech Michigan argues, the CNAM database is not a UNE, it is appropriate to price the service at a market rate and to impose reasonable restrictions on its use and on the method used to download the database. Without market pricing, Ameritech Michigan argues, the ILEC is required to forego its right to profit from its investments. Further, Ameritech Michigan argues that, absent restrictions of the use of the CNAM database, MCI would be permitted a regulatory advantage over other CLECs.

Finally, Ameritech Michigan argues that its proposed updating schedule is the same schedule that it uses to update the CNAM database itself. Thus, for MCI's access to be equal to the ILEC's, Ameritech Michigan argues, its proposed schedule should be adopted.

The Commission finds that Ameritech Michigan's argument that the CNAM database is not a UNE must be rejected. In the Commission's view, FCC precedent supports a finding that the CNAM database is a UNE. For example, in Appendix D of the UNE Remand Order, the FCC lists call-related database as a UNE. The FCC held in the same order that call-related databases include the CNAM database. Id., ¶ 406. The Commission need not go through the "necessary and impair" analysis, because the FCC already has completed that analysis and found that CNAM databases are critical for CLECs. Id., ¶416. The Commission further rejects Ameritech Michigan's argument that the unbundled element is only "access to" the database and not the database itself. In 47 CFR 51.317(e)(2)(B), promulgated in the UNE Remand Order, the FCC refers to the ILEC's "general duty to unbundle call-related databases."

Because the CNAM database is a UNE, it must be provided on a nondiscriminatory basis at cost-based prices, consistent with the methods approved in Case No. U-11831. Therefore, MCI's argument that Ameritech Michigan's tariff does not conform to the Commission's requirements is correct, and the tariff must be reformed.

There are two additional problems with Ameritech Michigan's tariff with regard to the CNAM database download. First, Ameritech Michigan's proposed tariff does not include the entire offering, but refers to a separate website contract amendment. Such a tariff does not comply with the Commission's standards, which require that a UNE or other regulated service be made available to any provider completely from the tariff, with all rates, terms, and conditions set forth within that tariff. No contract is required for the purchase of a tariffed service or UNE.[10]

Second, the proposed tariff attempts to establish restrictions on the use of the CNAM database. The Commission finds that the tariff need not contain restrictions on the use of the CNAM database information. MCI is bound by the same laws as Ameritech Michigan for use of this information. Moreover, the information may be lawfully used only to provide a telecommunications service. However, the ILEC may not impose restrictions on the type of telecommunications service for which a UNE may be used by a CLEC. See, First Report and Order,[11] ¶292.

However, the Commission rejects MCI's claim that Ameritech Michigan should provide the updates on a different basis than the ILEC proposes. Ameritech Michigan provides updates to

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[10] Complete and clear identification of rates, terms, and conditions is essential for tariffed services, and avoids certain problems. For example, Ameritech Michigan altered the contract on its website to reflect a nonrecurring charge of $100,000, rather than the originally listed $1,000. When it did so, Ameritech Michigan did not notify the Commission or alter the tariff language that it had filed. Rather, it merely updated the contract information on the referenced website.

[11] FCC Order 96-325, In the Matter of the Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, rel'd August 8, 1996.

itself on the same basis that it offers to provide MCI. MCI may be able to negotiate a different schedule for updates, but must pay Ameritech Michigan for any increased costs incurred for providing the change. As to the program used for downloading, MCI may use the program that Ameritech Michigan has installed for this purpose, or it may pay the costs incurred by Ameritech Michigan to alter the program used for providing this UNE, assuming that installation and operation of such a program would be technically feasible.

Procedures for Reviewing Section 271 Compliance Materials

On July 30, 2001, the Staff filed a motion on behalf of Ameritech Michigan, the Staff, and other interested parties who participated in a collaborative effort to establish procedures and a proposed schedule for reviewing performance measures reporting and the results of KPMG's third-party OSS testing. The proposed procedures and schedule were concurred in by the following: Ameritech Michigan, the Attorney General, AT&T, MCI, XO, CLECA, LDMI, and McLeod. Among other things, the agreement includes a one-day opportunity for interested parties to make oral presentations to the Commission and for the Commission to ask questions of the presenting parties. It also provides for the possibility of interim orders that point out any deficiencies that must be corrected and Ameritech Michigan's opportunity to correct those deficiencies before a final order is issued.

The Commission grants the joint motion to adopt the procedures and schedule agreed to by the named parties.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 et seq.; the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 USC 151

et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACS, R 460.17101 et seq.

b. Ameritech Michigan does not appear to be in full compliance with Section 271 of the federal Telecommunications Act of 1996, 47 USC 251 et seq., on the issues discussed in this order.

c. Within 20 days of the date of this order, Ameritech Michigan should file a report on its efforts to resolve the problem related to line loss notification.

THEREFORE, IT IS ORDERED that within 20 days of the date of this order, Ameritech Michigan shall file a report on its efforts to resolve the problems related to line loss notification, as directed in the order. Interested parties may file a response within 15 days of Ameritech Michigan's filing.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ Laura Chappelle
Chairman

(S E A L)

/s/ David A. Svanda
Commissioner

/s/ Robert B. Nelson
Commissioner

By its action of December 20, 2001.

/s/ Dorothy Wideman
Its Executive Secretary

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

_____
Chairman

_____
Commissioner

_____
Commissioner

By its action of December 20, 2001.

_____
Its Executive Secretary

In the matter, on the Commission's own motion, to consider **AMERITECH MICHIGAN's** compliance with the competitive checklist in Section 271 of the federal Telecommunications Act of 1996.	)))))	Case No. U-12320

Suggested Minute:

"Adopt and issue order dated December 20, 2001 reviewing Ameritech Michigan's compliance with certain portions of the competitive checklist in 47 USC 271, as set forth in the order."